

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Telecommunications Services Inside Wiring )  
Customer Premises Equipment )

CS Docket No. 95-184

COMMENTS

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BellSouth Corporation and BellSouth Telecommunications, Inc., by counsel ("BellSouth"), submit their comments to the Notice of Proposed Rulemaking ("NPRM") released in this proceeding on January 26, 1996.

BellSouth is a telephone service provider as well as a new entrant in the video programming delivery marketplace.<sup>1</sup> As the Commission notes, both telephone and cable service are delivered to subscribers through different types of intra-building facilities, typically twisted pair copper wire for telephony and coaxial cable for cable service.<sup>2</sup> Each service is regulated under a different statutory framework, each framework has different

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<sup>1</sup> BellSouth is a local exchange carrier ("LEC") engaged in the provision of telephone exchange and exchange access services in portions of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Prior to passage of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (the "Act"), BellSouth received authorization under Section 214 of the Commission's Rules to construct and operate a video dialtone technical and market trial in Chamblee, Georgia, and to construct and operate a rural cable television system on Daniel Island, South Carolina.

<sup>2</sup> NPRM at para. 2.

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inside wiring rules.<sup>3</sup> In this proceeding the Commission seeks comment on, among other things, whether it should establish a common inside wire demarcation point for cable and telephone services, as well as on whether and how the Commission's cable inside wiring rules can be structured to promote competition.<sup>4</sup>

A. THE COMMISSION SHOULD NOT ADOPT RULES MANDATING  
A COMMON TELEPHONE - CABLE DEMARCATION POINT

The technical and practical constraints identified by the Commission counsel against mandating a common demarcation point for telephone and cable service.<sup>5</sup> The Commission notes that as telephone companies and cable operators undergoing significant system upgrades have chosen to deploy fiber optic wiring for their common "trunk" lines, traditional technologies in the form of coaxial cable or twisted-pair wiring continue to be used to connect networks with individual subscribers.<sup>6</sup> For the foreseeable future telephone and video programming delivery services will continue to be delivered to subscribers over separate copper and coaxial intra-building facilities, notwithstanding any increased integration of network trunk facilities. With no corresponding "integration" of intra-building telephone and cable plant, there is no technical reason for mandating a

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<sup>3</sup> Id.

<sup>4</sup> NPRM at paras. 12 - 14.

<sup>5</sup> NPRM at para. 13. These constraints arise in the context of multiunit premises. Such constraints generally are not present in the case of single unit installations, which are governed by separate telephone and cable inside wire rules that are so similar as to be virtually indistinguishable.

<sup>6</sup> NPRM at para. 2.

common demarcation point for these services. Furthermore, since different providers will utilize different networks to deliver their own unique service offerings, a federally-mandated common service demarcation point would impose an unnecessary technological constraint.

The Commission has chosen not to mandate a fixed telephone service demarcation point for multiunit premises.<sup>7</sup> Instead, the Commission's current telephone inside wire multiunit premises rules permit building owners and telephone service providers to negotiate to arrive at a mutually satisfactory telephone network demarcation point. There is no evidence that this rule needs to be changed. The flexible advantages of the current telephone rule would be lost if a common demarcation point was mandated, simply for the sake of "logic" or "harmony," by default to a cable demarcation point established under a separate statutory framework. Thus, there is no reason for the Commission to mandate a common demarcation point for telephone and cable services; rather, it should allow MDU owners and network based service providers to negotiate the location of a network demarcation point, along with other relevant terms such as access, in the context of private arrangements.

**B. THE COMMISSION SHOULD NOT MANDATE A  
DEMARCATON POINT FOR MULTIPLE DWELLING UNITS**

The Commission is concerned that the current cable MDU demarcation point may impede competition in the video programming delivery marketplace, and seeks additional

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<sup>7</sup> The inside wire rule for telephone service is found at 47 C.F.R. Sec. 68.3 (Oct. 1, 1994). Although the rule speaks in terms of "multiunit premises," the NPRM describes the relevant premises as "multiple dwelling units" ("MDU").

comment on the competitive effect of keeping or changing the current cable demarcation point.<sup>8</sup> The current rule should be changed. There is simply no reason to mandate a cable demarcation point for MDUs in the first place. As with a common demarcation point for both telephone and cable services, mandating an intra-MDU demarcation point for cable service is unnecessary from a technical standpoint. Indeed, the Commission recognizes the inherent difficulty in mandating an MDU demarcation point for cable service that is “proper” for all locations. For instance, the Commission finds that “in light of the many architectural settings in which subscribers may reside” as well as the technical constraints posed by various premises wiring architectures, the establishment of a mandatory basement minimum point of entry demarcation point may be economically impracticable.<sup>9</sup> Yet this analysis begs the question, “Impracticable for whom?” Building owners and cable operators functioning in a free market are perfectly capable of making efficient economic choices in light of the circumstances in which they negotiate.

Mandating an intra-MDU demarcation point as a tool to facilitate competition in network based services constitutes misguided and inappropriate regulatory intervention in the marketplace. In the first instance, MDU owners in a free market determine whether or not they want multiple network based service providers present in their buildings. Second, the Telecommunications Act of 1996 imposes certain interconnection and unbundling requirements on incumbent LECs. This is the only statutory vehicle by which the Commission can assure competitive access to intra-MDU wiring, and then only to the

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<sup>8</sup> NPRM at para. 17.

<sup>9</sup> NPRM at paras. 18, 19.

intra-building telephone facilities of incumbent LECs.<sup>10</sup> Congress has not authorized any other Commission involvement with the private arrangements of MDU owners and network based service providers.

A mandatory MDU demarcation point affects not so much the service provider/subscriber relationship but rather the service provider/MDU owner relationship. Historically, telephone companies and private property owners have negotiated for rights to use private property with reference to state custom and practice and without interference from the FCC. The Commission's telephone inside wire multiunit premises rule sensibly embodies long-standing industry practice by allowing MDU owners and telephone service providers to negotiate for a demarcation point that takes into account all relevant market conditions, including embedded intra-building facilities, building architecture, the number of individual subscribers, local custom and practice and the technical ingenuity of the service provider. Taken together with the Telecommunication Act's unbundling and interconnection requirements, MDU owners that desire multiple telephone service providers have the complete freedom to facilitate competitive entry into their buildings. The Commission should not interfere with this right.

Cable operators and MDU owners should have the corresponding freedom to allocate their rights and responsibilities through negotiation. If, for instance, cable operators were subject to the rules currently in effect for telephone service providers, MDU owners interested in having multiple cable operators on their premises would have

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<sup>10</sup> Of course, this access assumes that the MDU owner consents to the presence of an alternate service provider on his or her property.

the ability to insist on a basement minimum point of entry demarcation point. MDU owners could conceivably negotiate for a commitment from a video service provider to unbundle its intra-MDU facilities and make them available to competitors on reasonable terms and conditions in exchange for the service provider's access to the property. If cable operators found a particular MDU owner-designated demarcation point or any other MDU owner-requested term of access economically impracticable under the circumstances they would be free to conduct their business as they pleased and to attempt to negotiate a more favorable arrangement. In any event, the Commission should not attempt to determine which of all possible solutions is best for all parties, for all purposes, and for all times; in doing so it can only limit the potential diversity of marketplace solutions.

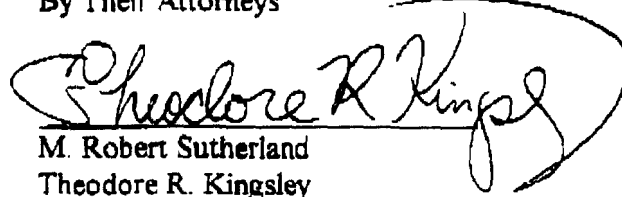
## CONCLUSION

The Commission can best facilitate competition by encouraging the market to operate through negotiation, rather than regulation. The Commission should not mandate an MDU demarcation point, whether or not the point is common to cable and telephony

services or specific to either network based service. The Commission should instead eliminate the current cable MDU demarcation point and substitute a rule like the telephone multiunit premises rule.

Respectfully Submitted,

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